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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,080	02/19/2004	Russell Hitchcock	R. HITCHCOCK 1-4-1-7	4766
47396	7590	04/11/2007	EXAMINER	
HITT GAINES, PC AGERE SYSTEMS INC. PO BOX 832570 RICHARDSON, TX 75083			RUTTEN, JAMES D	
			ART UNIT	PAPER NUMBER
			2192	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		04/11/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary

Application No.

10/782,080

Applicant(s)

HITCHCOCK ET AL.

Examiner

J. Derek Rutten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 have been examined.

Claim Objections

2. Claim 3 is objected to for the following informalities: Lines 2-3 recite: "further configure to..." This appears to be a typo which should instead read --further configured to....--

Correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 15, and 29 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 15 of copending

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Application No. 10/612,097 in view of U.S. Patent 5,568,644 to Nelson et al. (hereinafter "Nelson").

For example, in regard to claim 1, the '097 application claims:

A condition management callback system for use with a processor employing a hierarchical register consolidation structure, comprising: See claim 1 lines 1-3:

A condition management system for use with a processor employing a hierarchical register consolidation structure, comprising

a condition management structure containing groups of status indicators associated with said hierarchical register consolidation structure logically abstracted into a tree of hierarchical container objects and element objects, each of said container objects associated with at least one of said element objects and linked to a single parent object, each of said element objects representing at least one of said status indicators and linked to a single child object; See claim 1 lines 4-11:

a condition management structure configured to abstract groups of status indicators associated with said hierarchical register consolidation structure into a tree of hierarchical container objects and element objects, each of said container objects associated with at least one of said element objects and linked to a single parent object, each of said element objects configured to represent at least one of said status indicators and linked to a single child object;

*...
an abstraction retrieval subsystem configured to employ said condition management structure to determine a condition of at least one of said status indicators by traversing said hierarchical register consolidation structure, ... See claim 1 lines 12-15:*

an abstraction retrieval subsystem configured to employ said condition management structure to traverse said hierarchical register consolidation structure to determine a condition of at least one of said status indicators

The '097 application does not expressly disclose: *a callback abstraction subsystem configured to register a callback for one of said element objects and store logically abstracted data associated with said callback; and initiate said callback based on said condition and pass said logically abstracted data if said one of said element objects representing said at least one of said status indicators has said callback registered.* However, Nelson teaches the subject matter not addressed by the '097 application through disclosure of registering and initiating callbacks. See at least column 3 lines 56-61, e.g. "handler ISR is invoked." It would have been obvious to one of ordinary skill at the time the invention was made, to combine Nelson's teaching of callbacks with the '097 condition management structure in order to reduce the dependency on device drivers as suggested by Nelson (see column 2 lines 25-30).

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 is directed to a "system for use with a processor." However, this system appears to be comprised of mere software elements that are interpreted as being a software system, per

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se. Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In this case, a "condition management system *for use* with a processor" is recited. However, the claim language includes the phrase "for use" which indicates that the processor is not part of the system. Further claim elements are merely directed to software elements and do not include any statutory system elements. In contrast, claim 5 further limits the hierarchical register consolidation structure to be a hardware element ("interrupt register structure of said processor") which is interpreted to provide a statutory system element permitting the data structure's functionality to be realized. Claims 2-4, and 7-10 are dependent upon claim 1 but fail to provide any further statutory system elements. See MPEP 2106.01.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 7-9, 11-13, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,568,644 to Nelson et al. (hereinafter "Nelson").

In regard to claim 1, Nelson discloses:

A condition management callback system (see Fig. 2) for use with a processor employing a hierarchical register consolidation structure, comprising:

a condition management structure containing groups of status indicators associated with said hierarchical register consolidation structure logically abstracted into a tree of hierarchical container objects and element objects, each of said container objects associated with at least one of said element objects and linked to a single parent object, See Fig. 1A., also column 3 lines 9-15, e.g. "hierarchical tree." Nelson provides an abstraction of a hierarchy used for managing interrupts.

each of said element objects representing at least one of said status indicators and linked to a single child object; Fig. 1A illustrates that each element is associated with a single set, or collection, of element objects. Further, see column 3 lines 44-51.

a callback abstraction subsystem configured to register a callback for one of said element objects and store logically abstracted data associated with said callback; and See column 3 lines 56-59, e.g. "handler ISR."

an abstraction retrieval subsystem configured to employ said condition management structure to determine a condition of at least one of said status indicators by traversing said hierarchical register consolidation structure, See column 4 line 66 – column 5 line 2, e.g. "interrupt engine begins processing."

initiate said callback based on said condition and pass said logically abstracted data if said one of said element objects representing said at least one of said status

indicators has said callback registered. See column 3 lines 60-61, e.g. “handler ISR is invoked.”

In regard to claim 2, the above rejection of claim 1 is incorporated. Nelson further discloses: *wherein said callback abstraction subsystem is further configured to register said callback for at least one of said container objects.* See column 3 lines 58-59.

In regard to claim 3, the above rejection of claim 2 is incorporated. Nelson further discloses: *wherein said abstraction retrieval subsystem is further configured to initiate said callback based on said element objects associated with said at least one of said container objects and pass said logically abstracted data.* See column 3 lines 35-43.

In regard to claim 7, the above rejection of claim 1 is incorporated. Nelson further discloses: *wherein said callback includes a function pointer, an application data pointer and a callback state.* See column 3 lines 46, 61-64, and column 4 lines 3-5.

In regard to claim 8, the above rejection of claim 1 is incorporated. Nelson further discloses: *wherein said callback includes control information for automatic enabling and disabling of said callback.* See column 4 lines 14-22.

In regard to claim 9, the above rejection of claim 1 is incorporated. Nelson further discloses: *wherein said callback abstraction subsystem is further configured to set*

an auto-disable flag associated with said callback and said abstraction retrieval subsystem is further configured to employ said auto-disable flag to cause said callback to be disabled from being initiated again after a first initiation. See column 4 lines 25-28.

In regard to claim 11, Nelson discloses a method. See column 2 lines 57-59, e.g. "steps." All further limitations have been addressed in the above rejection of claim 1.

In regard to claims 12, 13, and 17-19, the above rejection of claim 11 is incorporated. All further limitations have been addressed in the above rejections of claim 2, 3, and 7-9, respectively.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson as applied to claims 1 and 11 above, and further in view of U.S. Patent 5,805,889 to Van De Vanter (hereinafter "Van De Vanter").

In regard to claim 4, the above rejection of claim 1 is incorporated. Nelson further discloses: *wherein said logically abstracted data is a ...message.* See column 5

lines 22-25. Nelson does not expressly disclose: *a text message*. However, Van DeVanter teaches that text messages are passed in the form of string arguments. See column 10 lines 65-67. It would have been obvious to one of ordinary skill at the time the invention was made, to use Van De Vanter's teaching of a string argument with Nelson's message in order to provide notification of the handler's name as suggested by Van De Vanter.

In regard to claim 14, the above rejection of claim 11 is incorporated. All further limitations have been addressed in the above rejection of claim 4.

11. Claims 5, 6, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson as applied to claims 1 and 11 above, and further in view of U.S. Patent 6,845,419 to Moyer (hereinafter "Moyer").

In regard to claim 5, the above rejection of claim 1 is incorporated. Nelson does not expressly disclose: *wherein said hierarchical register consolidation structure is a hierarchical interrupt register structure of said processor and said status indicators are interrupt bits of registers within said hierarchical register consolidation structure*.

However, Moyer teaches that interrupt registers are used to hold status indicators as interrupt bits. See Abstract and Fig. 2. It would have been obvious to one of ordinary skill at the time the invention was made, to use Moyer's interrupt registers with Nelson's

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hierarchical register consolidation structure in order to provide a mechanism to determine pending interrupts as suggested by Moyer (see column 1 lines 36-41).

In regard to claim 6, the above rejection of claim 5 is incorporated. Nelson further discloses: *wherein said logically abstracted data contains information related to a type of interrupt*. See column 4 lines 19-22.

In regard to claims 15 and 16, the above rejection of claim 11 is incorporated. All further limitations have been addressed in the above rejection of claims 5 and 6, respectively.

12. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson as applied to claims 1 and 11 above, and further in view of U.S. Patent 4,768,149 to Konopik et al. (hereinafter "Konopik").

In regard to claim 10, the above rejection of claim 1 is incorporated. Nelson does not expressly disclose: *wherein said callback abstraction subsystem is further configured to register multiple callbacks for said one of said element objects and store logically abstracted data for each of said callbacks*. However, Konopik teaches shared interrupts by multiple handlers that are registered to service a single interrupt using stored data. See column 6 lines 56-64. It would have been obvious to one of ordinary skill at the time the invention was made, to use Konopik's teaching of shared interrupts with Nelson's

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interrupt handlers in order to share a common interrupt line among a plurality of devices as suggested by Konopik (see column 5 lines 54-57).

In regard to claim 20, the above rejection of claim 11 is incorporated. All further limitations have been addressed in the above rejection of claim 10.

Conclusion


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Derek Rutten whose telephone number is (571)272-3703. The examiner can normally be reached on M-F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


TUAN DAM
SUPERVISORY PATENT EXAMINER

jdr